

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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MANUEL DE JESUS ROSARIO,

Plaintiff, 15-CV-6049 (JSR)

-against-

MIS HIJOS DELI CORP., PALMA  
GROCERY CORP., 251 E. 123RD ST.  
REALTY, LLC, JOSE PALMA, LEONIDA  
COLLADO, and JUNIOR PALMA,

Defendants.

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**DECLARATION OF STEVEN B. ROSS, ESQ. IN SUPPORT OF  
PLAINTIFF'S APPLICATION FOR ATTORNEYS' FEES AND COSTS**

I, Steven B. Ross, Esq., hereby declare the following to be true and correct:

1. I am an attorney in good standing of the bar of the State of New York and am a partner at Ross & Asmar LLC, counsel of record for the Plaintiff in this action. I am admitted to practice before this Court. I respectfully submit this declaration in support of Plaintiff's application for attorneys' fees and costs.
2. I make this declaration based on personal knowledge and if called and sworn as a witness could and would testify competently thereto.

**HOURS**

3. Attached as Exhibit A to this declaration is a copy of the time and expense records in this action for Ross & Asmar LLC.
4. Exhibit A reflects the contemporaneously maintained hours in this matter. In the exercise of billing judgment, I have eliminated any hours that were not justifiable. I have also eliminated all paralegal time spent on this matter, despite numerous hours of work

performed in this matter by paralegals at Ross & Asmar. I have annexed receipts for most of the expenses claimed in connection with this litigation. Some smaller amount receipts (receipts for copying of trial exhibits, cost of trial binders, and taxi receipt for travel to Court with numerous binders) are not available. These paper receipts were not scanned to electronic format and our physical office is closed due to the coronavirus crisis. I affirm that the expenses as set forth in the annexed time and expense invoice are true and accurate expenses incurred by my office in connection with this litigation.

## **RATE**

5. I have billed my time at the rate of \$400 per hour. I am a 1992 graduate of Colombia Law School and started my legal career as an associate with Weil, Gotshal & Manges LLP. I have over 25 years experience as a litigator and trial attorney. I have experience in representing clients in wage and hour matters as counsel for both plaintiffs and defendants, since 2011. Although I have not been practicing in the specific wage and hour field for my entire career, my experience in over 25 years in litigation is easily transferable to the context and wage and hour matters. The skills necessary in litigating, and ultimately trying a case are not unique to employment law, and I respectfully suggest to the Court that my experience is not less valuable as concerns what a reasonable client would pay for an attorney of my experience and skill.
6. I have represented defendants in *Ho, et al. v. Sim Enterprises Inc., et al.*, 11-CV-2855 (S.D.N.Y.) (including bench trial in that matter), *Gonzalez v. Abitino's Pizza 49<sup>th</sup> Street Corp., et al.*, 12-CV-8905 (S.D.N.Y.), *Chauca, et al. v. Abitino's Pizza 49<sup>th</sup> Street Corp., et al.*, 15-CV-6278 (S.D.N.Y.), *Calle, et al. v. ABI Group LLC, et al.*, 14-CV-2465 (E.D.N.Y.), and *Bravo Sanchez v. M & V Landscaping Inc., et al.*, Index No. 3605/2016

(Sup. Ct. Kings County). I have served as plaintiff's counsel in *Valencia v. Mavima Restaurant Corp.*, et al., 15-CV-0701 (S.D.N.Y.), *Sanchez, et al. v. C Penn Foods Inc.*, et al., 15-CV-10156 (S.D.N.Y.), *Lopez, et al. v. Wyeth, Inc.*, et al., 15-CV-9645 (S.D.N.Y.), *Gonzalez Rosete v. Met Foodmarkets*, et al., 15-CV-5200 (S.D.N.Y.), *Serrano Hernandez, et al. v. Petey's Burger*, et al., 15-CV-1564 (E.D.N.Y.), *Morocho, et al. v. VTM Corp.*, et al., 15-CV-4496 (E.D.N.Y.), *Bravo Bravo v. Prince Dollar Pizza Inc.*, et al., 15-CV-7433(E.D.N.Y.), *Perez, et al. v. MVNBC Corp.*, et al., 15-CV-6127 (S.D.N.Y.), *Cruz Ojeda v. 3007 Kold Kuts LLC*, et al., 16-CV-3512 (E.D.N.Y.), *Ponce v. A.A. Pastosa Ravioli Corp.*, et al., 16-CV-3512 (E.D.N.Y.), *Toc Pretzantzin v. Lopez*, et al., 16-CV-5763 (E.D.N.Y.), and *Yorke v. TSE Group LLC*, et al., 18-CV-5268 (S.D.N.Y.) (transferred to arbitration). This list does not include matters that were able to be settled prior to commencing litigation, or that concerned representation of respondents with the Department of Labor.

7. I spent 205.86 total hours litigating this matter, and an additional 5.1 hours in preparing this attorneys' fees application.
8. My associate, Eric Dawson, has billed his time at \$300 per hour. Mr. Dawson is a 2011 graduate of the Fordham University School of Law and started working as an associate at Ross & Asmar LLC in February 2013. He is currently an eighth year associate at Ross & Asmar. Since starting to work at Ross & Asmar, Mr. Dawson has worked as a litigation and trial attorney, gaining experience, *inter alia*, in representing clients in wage and hour matters as both plaintiffs and defendants.
9. Mr. Dawson represented defendants in *Ho, et al. v. Sim Enterprises Inc.*, et al., 11-CV-2855 (S.D.N.Y.) (assisting in the bench trial in that matter), *Chauca, et al. v. Abitino's*

*Pizza 49<sup>th</sup> Street Corp.*, et al., 15-CV-6278 (S.D.N.Y.), *Calle, et al. v. ABI Group LLC*, et al., 14-CV-2465 (E.D.N.Y.), and *Bravo Sanchez v. M & V Landscaping Inc.*, et al., Index No. 3605/2016 (Sup. Ct. Kings County). Mr. Dawson has served as plaintiff's counsel in *Valencia v. Mavima Restaurant Corp.*, et al., 15-CV-0701 (S.D.N.Y.), *Sanchez, et al. v. C Penn Foods Inc.*, et al., 15-CV-10156 (S.D.N.Y.), *Lopez, et al. v. Wyeth, Inc.*, et al., 15-CV-9645 (S.D.N.Y.), *Gonzalez Rosete v. Met Foodmarkets*, et al., 15-CV-5200 (S.D.N.Y.), *Serrano Hernandez, et al. v. Petey's Burger*, et al., 15-CV-1564 (E.D.N.Y.), *Morocho, et al. v. VTM Corp.*, et al., 15-CV-4496 (E.D.N.Y.), *Bravo Bravo v. Prince Dollar Pizza Inc.*, et al., 15-CV-7433 (E.D.N.Y.), *Perez, et al. v. MVNBC Corp.*, et al., 15-CV-6127 (S.D.N.Y.), *Cruz Ojeda v. 3007 Kold Kuts LLC*, et al., 16-CV-3512 (E.D.N.Y.), *Ponce v. A.A. Pastosa Ravioli Corp.*, et al., 16-CV-3512 (E.D.N.Y.), *Toc Pretzantzin v. Lopez*, et al., 16-CV-5763 (E.D.N.Y.), and *Yorke v. TSE Group LLC*, et al., 18-CV-5268 (S.D.N.Y.) (transferred to arbitration).

10. Mr. Dawson spent 193.22 total hours litigating this matter, and an additional XX hours in preparing this attorneys' fees application.

11. Time for travel has been charged at half of the attorney's normal hourly rate.

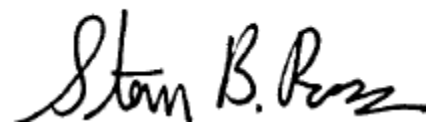
12. Ms. Khan and Ms. Drasher were both employed by Ross & Asmar and performed some work in this matter (2 hours and 7 hours respectively). Both Ms. Khan and Ms. Drasher were law school graduates who had passed the New York State Bar Examination and were awaiting admission at the time they were employed by Ross & Asmar. Their time has been charged at \$150 per hour.

## **COSTS**

13. Ross & Asmar has expended the following amounts in costs:

- a. Initial Filing: \$400 (SDNY filing fee)
  - b. Process Server Fee: \$85
  - c. Interpreter for Defendant Depositions: \$1,900 (Exhibit B)
  - d. Photos of location for Depositions and trial: \$30.00
  - e. HPD Documents: \$49.20 (Exhibit C)
  - f. Deposition Costs: \$2,869.75 (Exhibit D)
  - g. Westlaw Fees: \$1,119.46 (Exhibit E)
  - h. Trial Exhibit Fees (copies & binders): \$902.32 (Exhibit F partial)
  - i. Subpoena Service Fee (M. Mund: defendant's accountant): \$257 (Exhibit G)
  - j. Subpoena Witness Fee (Mund): \$57.00 (Exhibit H)
  - k. Taxi (for trial with exhibits): \$20.75
  - l. Interpreter Cost for Trial: \$2,500 (Exhibit I)
14. The total amount sought is \$154,536.76 of which \$143,937.50 are fees and \$10,599.26 are costs.
15. Pursuant to 28 U.S.C. § 1746(2), I declare under penalty of perjury that the foregoing is true and correct.

Dated: April 3, 2020



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Steven B. Ross, Esq.